



October 29, 1999

Mr. Monty Wade Sullivan
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR99-3036

Dear Mr. Sullivan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130347.

The City of Houston (the "city") received a request for copies of the 9-1-1 emergency telephone calls reporting a "road rage" incident involving Lloyd Kelley on August 27, 1999. You assert that the requested information is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the information you have submitted.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

* * *

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

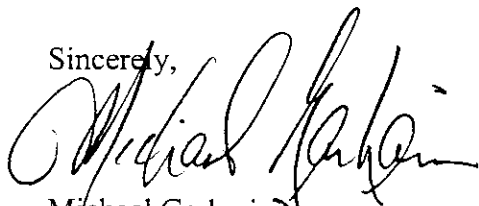
Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its

face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that the requested information concerns an ongoing criminal investigation. It appears that related criminal prosecutions are now pending. You also argue that release of the information in this instance would interfere with law enforcement and the pending prosecutions. You have provided an affidavit from an Assistant District Attorney for Harris County who asks that the requested information not be released because of the pending criminal prosecutions. *See* Open Records Decision No. 586 (1991) (need of another governmental body to withhold the information may provide a compelling reason for nondisclosure). We find that you have shown that the release of the requested information would interfere with the detection, investigation or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 216 (1978). Thus, we conclude that the requested information may be withheld under section 552.108(a)(1).

We note, however, that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see Houston Chronicle*, 531 S.W.2d at 187.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Garbarino
Assistant Attorney General
Open Records

MG/jc

Ref: ID# 130347

Encl: Submitted documents

cc: Mr. Larry Mullins
3310 Bissonnet
Houston, Texas 77005
(w/o exhibits)